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CITY & TOWN

A Publication of the Massachusetts Department of Revenue's Division of Local Services

New Office of Educational Quality and Accountability

written by Dieter Wahl

The supplemental budget, Chapter 384 of the Acts of 2000, created a new independent Office of Educational Quality and Accountability (OEQA). Its purpose is to provide an independent mechanism to verify the efforts of schools and school districts to promote higher levels of academic achievement by students. The office will act as an independent auditing body verifying educational measurements and tests conducted by or for the Department of Education (DOE) in implementing the mandates and directives of Chapter 71 of the Acts of 1993 (the Education Reform Act). A five member Educational Management Accountability Council (EMAC) will be appointed by the governor to oversee the OEQA. The council's mandates include the following:

- Establish annual goals for the office;
- Review and approve protocols for the audit and inspection of schools and school districts, including regional school districts;
- Review the findings of audits and inspections undertaken by the director pursuant to this section;
- Review the performance of the director; and
- Make recommendations to the governor, board of education, the general court and local school committee or board of trustees, when appropriate, to facilitate the improvement of schools.

The governor is expected to name the council members shortly and they in turn will hire a director. The authorizing legislation gives the director access to all necessary papers, vouchers, books

and records pertaining to a school, including a charter school, a school district and a regional school district. It also states that schools, school districts and school personnel shall cooperate with the director for purposes of any inspection or audit. In the event of instances of noncompliance with the law, the council will refer the matters to the attorney general and the commissioner of education for appropriate action.

The new Office of Educational Quality and Accountability will continue and expand on school district audits initiated by its predecessor, the Educational Management Accountability Board (EMAB) established by executive order in 1997. It will conduct at least 24 audits

Promote higher levels of academic achievement.

a year and has an appropriation of \$3.9 million for fiscal year 2001. The office's mandates include the following:

- Verify the accuracy of reports of schools and districts by conducting or contracting for periodic program and fiscal audits as necessary;
- Investigate allegations of a breach of academic integrity in the administration of any assessments administered by DOE;
- Undertake inspections of schools and school districts to determine the quality of instruction, the performance of administrative, instructional and other staff and make recommendations about the schools' and school districts' goals and performance;

- Review a district's Massachusetts Comprehensive Assessment System (MCAS) success plan, if any, submitted to DOE pursuant to M.G.L. c. 69 §11 and evaluate the implementation of said plan;

- Review a district's implementation of any MCAS grants received to develop or enhance academic support services for students scoring in level 1 or 2;

- Review the impact of unanticipated growth in enrollments and the cost of special education on municipal education budgets, where applicable, including, but not limited to, the impact of said costs on other areas of appropriation within the municipal budget;

- Evaluate the alignment of curriculum and professional development plans with the state curriculum and assessments; and

- Review the progress of student achievement.

It is expected that the Office of Educational Quality and Accountability will build on the audits of school districts
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LEGAL

in Our Opinion

Art Is Sometimes Not for Sale

In a recent decision, the Supreme Judicial Court (SJC) blocked the sale of 17 oil paintings which had been bequeathed to a charitable trust. The case is *Museum of Fine Arts v. Beland*.¹ Under the terms of the will of Reverend William E. Wolcott, who died in 1911, 17 paintings, including three masterpieces by Claude Monet, Camille Pissarro, and Eugene Boudin, were bequeathed to the trustees of the White Fund, a charitable trust. The minister's express purpose in making this bequest was "to create and gratify a public taste for fine art, particularly among the people of the City of Lawrence." Wolcott also stipulated in his will that the paintings be displayed at the Museum of Fine Arts (MFA) in Boston until such time as they could be exhibited in a public art gallery in the City of Lawrence. The MFA received the paintings, regularly exhibited the three important works, and held the 14 minor works in storage but available for viewing by persons interested in them.

Alarmed that the trustees planned to sell the paintings, the MFA brought suit in superior court seeking a declaratory judgment that the charitable trust lacked the power to sell the paintings. The superior court judge agreed that Wolcott's will did not permit the sale of the paintings. The judge also held that Wolcott's intent was being satisfied with respect to the three exhibited paintings. He further held that a trial was necessary to decide whether the bequest should be modified to permit the sale of the 14 paintings in storage. This decision was appealed to the Supreme Judicial Court.

The trustees stated that the terms of Wolcott's will permitted the sale of the paintings since the people of Lawrence were not receiving enough of a cultural benefit from the exhibition of only three paintings at the MFA. Pointing to the language "full and absolute authority" conferred on the trustees in the will, the trustees argued they could sell the paintings. The SJC rejected this claim. The court wrote that the will also contained the following crucial provision: "The ownership and control of the pictures shall be vested permanently and inalienably ... in [the] Trustees." The SJC interpreted this language to mean that the trustees were not to sell them but rather to possess the paintings permanently.

Even if the will did not permit the sale of the paintings, the trustees urged the court to apply the doctrine of *cy pres* to this bequest. Under this legal principle, where the intent of the donor can no longer be satisfied, a court of proper jurisdiction may allow property held for a specific charitable purpose to be directed toward some other charitable purpose. The trustees believed that the presence of the paintings in Boston, even if three were regularly exhibited there, did little to gratify the taste for fine art in Lawrence. There was also little chance that a suitable art gallery would be built in the City of Lawrence. A sale of the paintings, however, would raise millions of dollars that could be used to fund art programs in the City of Lawrence.

The SJC rejected that argument. Under the terms of the will, Wolcott's intent was "to create and gratify a public taste for fine art" with a preference for the people of Lawrence. The lack of a suitable gallery in Lawrence, however, did

not justify the sale of the three exhibited paintings since display of these works at the MFA complied with the express terms of the will. *Cy pres*, according to the court, should also not be employed to sell the remaining paintings since a sale would be the opposite of Wolcott's intent. Selling the paintings would deprive the public of viewing them. In the court's view, *cy pres* might be applied to permit exhibition of the 14 paintings at a site geographically near Lawrence, such as the Town of Andover. In the absence of information as to alternative locations, however, the court declined to rule on loosening the geographic restriction for the 14 paintings in storage.

Accordingly, the SJC held that the MFA had prevailed and the trustees could not sell the paintings. ■

written by James Crowley

1. 432 Mass. 540 (2000).

New Office

➡ *continued from page one*

performed under the direction of the former EMAB by the Department of Revenue's Education Audit Bureau. That bureau, created by Deputy Commissioner Joseph J. Chessey, Jr. and headed by Bureau Chief Dieter Wahl, has conducted 32 audits over the past three years, and teamed up with DOE for six of them. OEQA will absorb the school district accountability function of the Department of Education. ■

FOCUS

on Municipal Finance

Certification and Tax Rate Setting for FY2001 — How Is Your Community Doing?

Were your tax bills issued timely this year? The Division of Local Services (DLS) monitors communities' submissions and the Division's processing of these critical tax rate-setting documents. Specifically, DLS is looking for patterns between the 155 semi-annual tax billing communities and the 196 quarterly tax billing communities during the triennial certification, new growth approval and tax rate setting processes. This article discusses the results of the analyses of the docu-

ments used for fiscal year 2001 tax rate setting and hopefully will assist municipalities meet their target tax rate setting dates in future years.

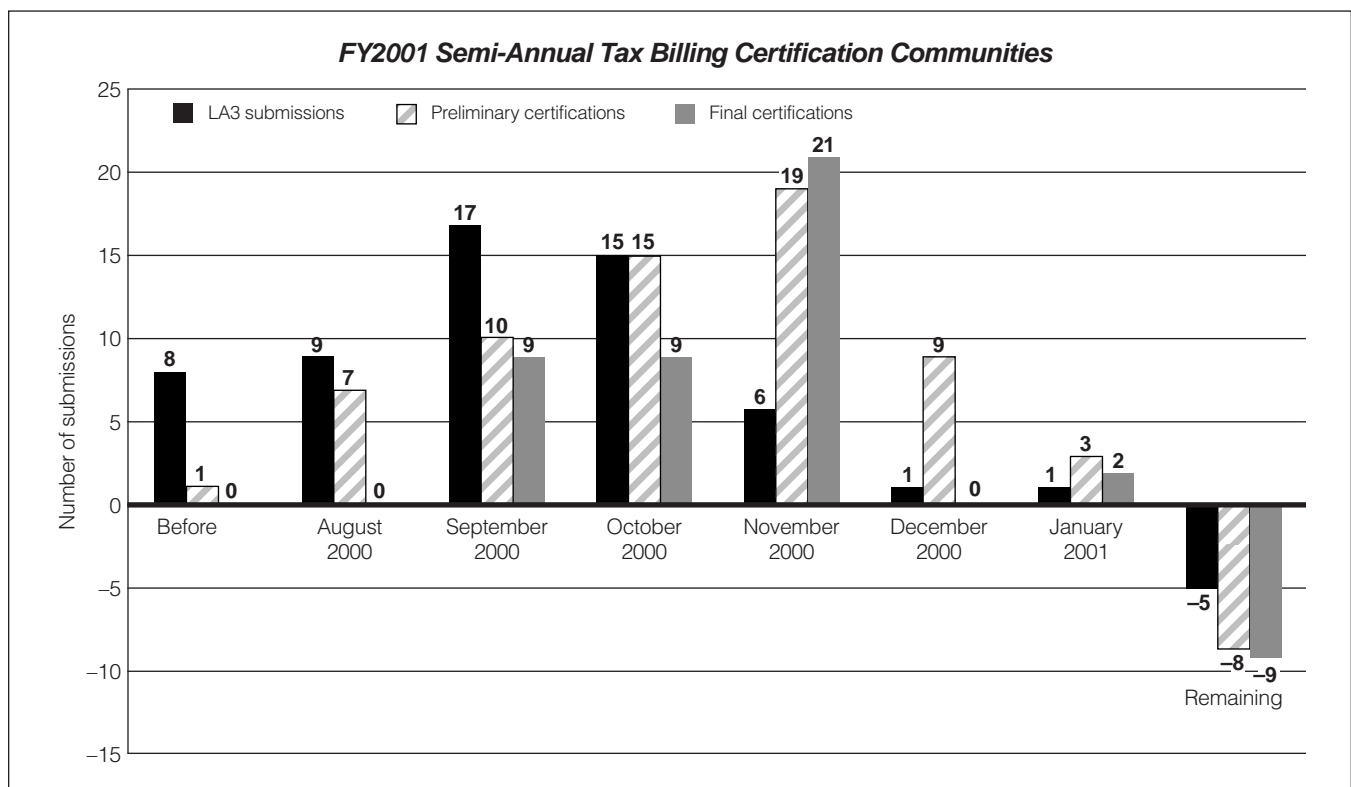
Certification

For fiscal year 2001 there were 140 communities scheduled to have their real and personal property values certified by the Bureau of Local Assessment (BLA) to ensure that their properties were being assessed at full and fair cash value. BLA analyzed the certification communities to determine their patterns in submitting sales report forms (LA-3) and the months in which preliminary and final certification were granted. Typically sales report submission is early in the certification process. Preliminary certification is granted when all BLA reviews have been completed, thereby marking the beginning

of the communities' public disclosure process. Final certification is granted after the proposed values have been reviewed by the taxpayers through a formal public disclosure process, appropriate changes have been made by the assessors and BLA has subsequently reviewed the changes. *Figures 1 and 2* indicate the results from semi-annual tax billing communities and quarterly tax billing communities respectively. Historically, for the quarterly communities, November and December have been extremely busy months at the Division of Local Services for certifying tax rates and new growth. These charts indicate that many semi-annual billing communities are submitting later in the year and opting to issue their tax bills late. Also, quite a few semi-annual communities were just submitting their

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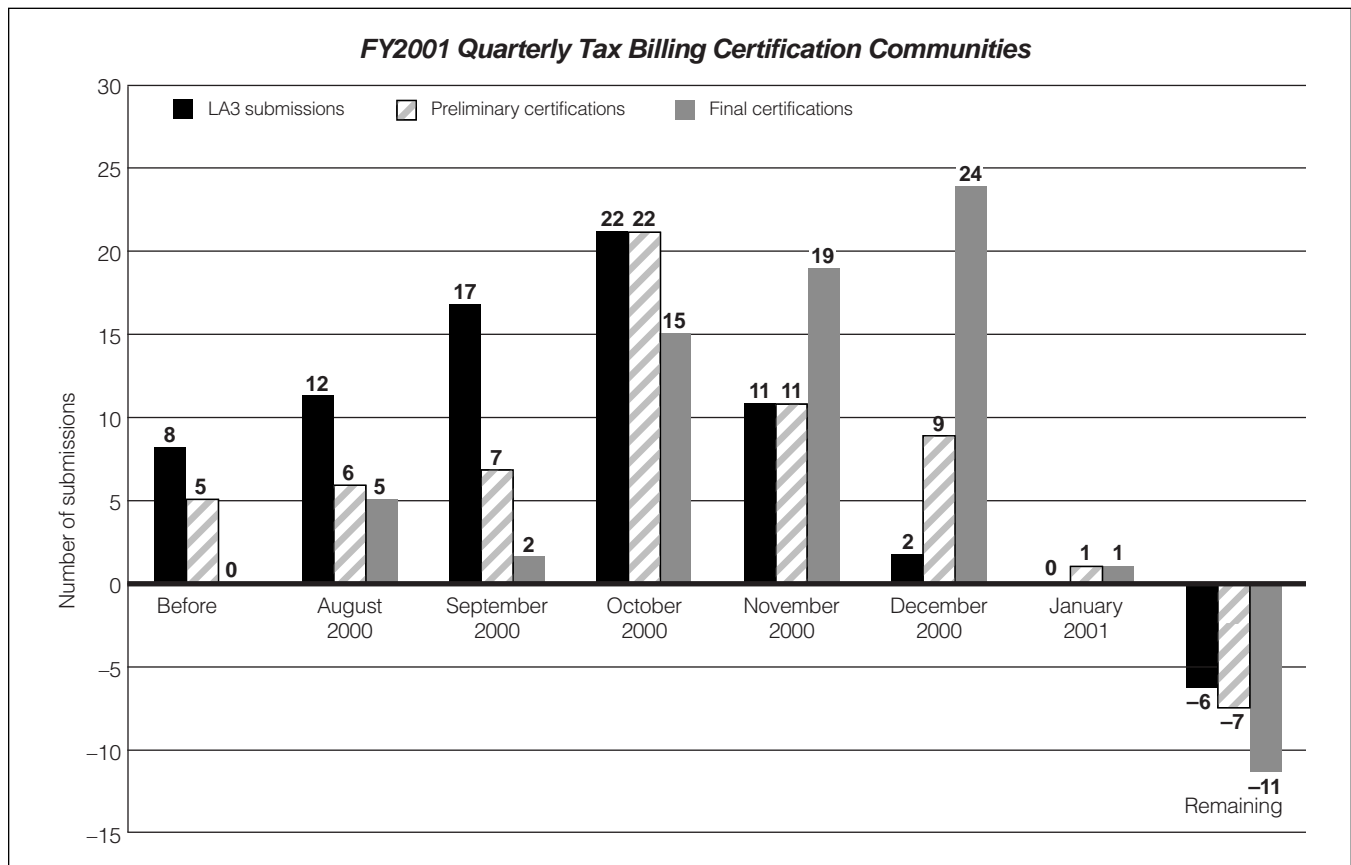
Figure 1



Certification and Tax Rate Setting

→ continued from page three

Figure 2



sales reports to begin the certification process at the time when their tax bills should have been issued at the end of September. These communities did not receive approval for preliminary and final certification until November.

In spite of these additional late submissions, DLS has been timely in servicing these communities. On average, the number of days it took for communities to receive preliminary certification after submission of the LA-3 was 14 days and only one or two days to receive final certification after submission of the Assessment Adjustment List (LA-10), which describes valuation changes made after public disclosure.

New Growth

New Growth approval continues to improve. Most communities are now using the automated recapitulation disk to submit their Tax Base Levy Growth, commonly called new growth. The automated recapitulation disk eliminates calculation errors and enables BLA staff to upload submissions more quickly. The New Growth Activity chart (Figure 3) and the New Growth Approval Time Log (Figure 4) show that DLS received the majority of new growth submissions during the month of November. These submissions were certified in three to four days.

Tax Rate

Figures 5 and 6 show that the semi-annual communities receive tax rate approval at the same time as the quarterly communities. The Bureau of Accounts certified only 31, or 20 percent, of the tax rate submissions by the semi-annual communities in August and September. However, 72 of these communities (47 percent) sought approval in November and December, along with the 186, or 94 percent, being submitted by the quarterly communities during the same time period.

These patterns demonstrate clearly that certification and tax rate setting planning is vital for both the communities and DLS. Communities should not make planning decisions without conferring with DLS for tax rate setting and certification, with contractors for revaluation services and with service bureaus for printing and/or stuffing tax bills. These outside entities can have a significant impact on scheduling if extra time is not built into planning for unex-

pected situations. All contracts involving outside vendors should have a realistic timetable for workplan completion since most vendors have many communities seeking the same services at the same time. DLS recommends that communities meet certain target dates, as indicated in the list that follows, to ensure a smooth certification and tax rate setting process. These dates allow extra time for unexpected delays.

Semi-Annual Tax Billing

Certification Target Dates

Preliminary certification June 15
Public disclosure July 15
Final certification August 5

Tax Rate Target Dates

Submit new growth August 15
Submit tax recap September 1
Mail tax bills September 30

Quarterly Tax Billing

Certification Target Dates

Preliminary certification September 15
Public disclosure October 15
Final certification November 5

Tax Rate Target Dates

Submit new growth November 15
Submit tax recap December 1
Mail tax bills December 31

Should a community not meet the target dates, DLS recommends the use of preliminary tax bills to ensure adequate cash flow. Communities using the quarterly tax payment system may now issue a third quarter preliminary tax bill with the written approval of the Commissioner of Revenue. This option allows all communities, whether billing quarterly or semi-annually, to plan realistic timetables for recertification and tax rate setting.

Many semi-annual communities are not following these target dates. This slows down the certification process for quarterly communities submitting in the proper time frame.

DLS must plan for accomplishing its work as well. So that BLA field advisors can accommodate the needs of their communities, they request that communities specify when they will need their services. This schedule of dates should be discussed and agreed upon by the revaluation contractor. If the community eventually realizes that the dates cannot be met, it should notify the advisor immediately. Though developing these schedules may seem burdensome to some communities, it proved invaluable during the FY2001 recertification, since it enabled BLA field advisors to identify scheduling conflicts.

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Figure 3

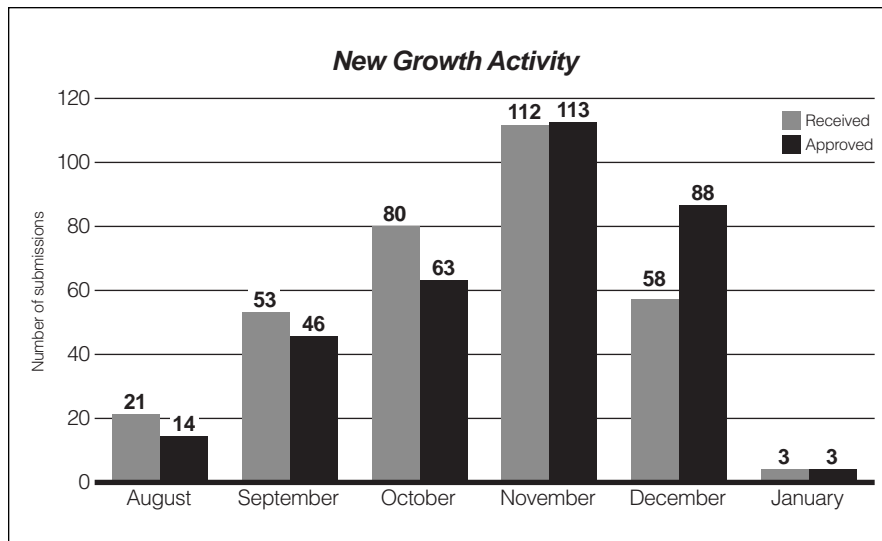
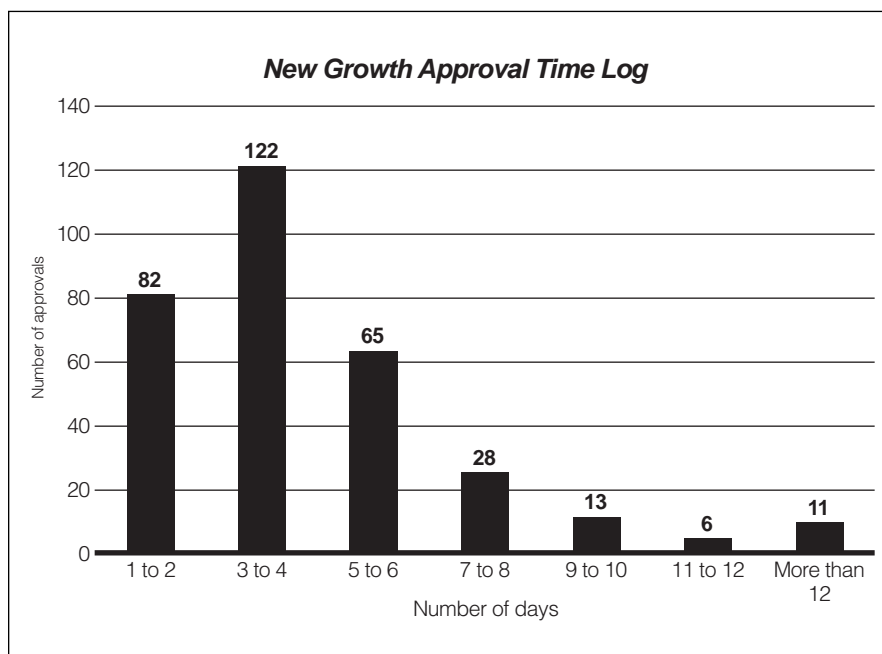


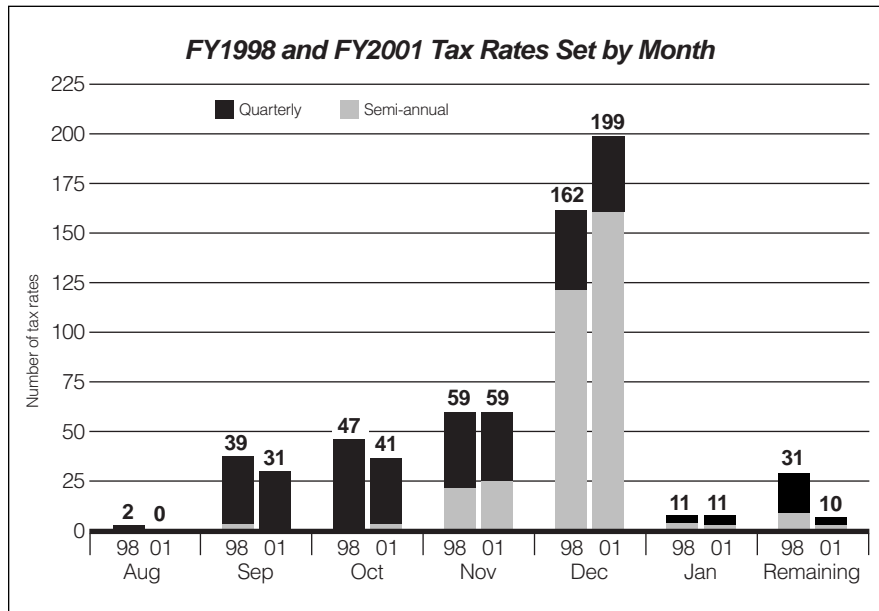
Figure 4



Certification and Tax Rate Setting

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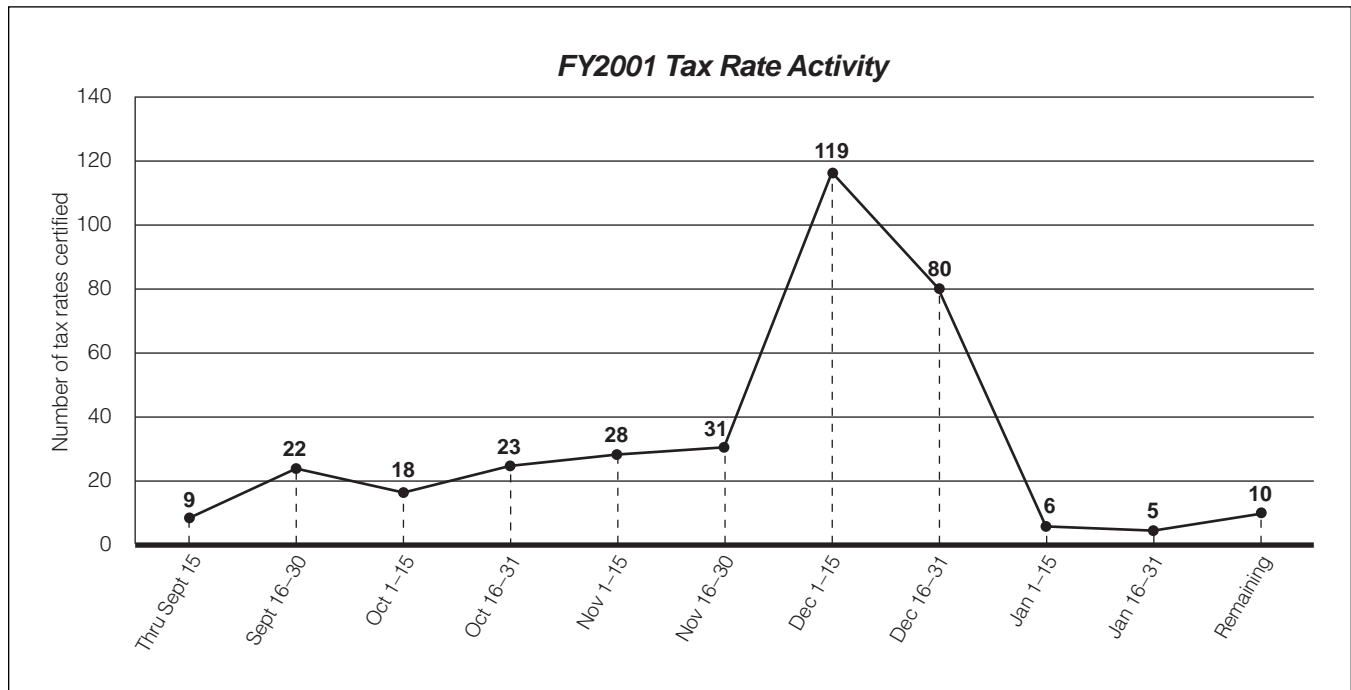
Figure 5



These analyses show why the end of the calendar year is so demanding for contractors and DLS staff. They also show that communities have the opportunity to take advantage of the less busy months, thereby reducing the competition from other communities for certification review, new growth approval and tax rate setting with the proper planning. ■

written by Brenda Cameron
data provided by Donna Demirai and David Wood

Figure 6



DLS UPDATE

Payment Information Available on Comptroller's Website

As part of the governor's e-Government initiative, the Comptroller's Office has added a new function to their Internet site (www.massfinance.state.ma.us). This site has been designed specifically for Massachusetts cities and towns.

The *MASSFinance Cities and Towns* category has been enhanced to provide payment and assessment information for every city and town in the Commonwealth. The payment information is divided into Cherry Sheet and non-Cherry Sheet payments and is displayed in three views: summary view, appropriation/budget line item view, and transaction detail view.

For the current and prior fiscal year, the summary view displays gross total payments, less assessments and calculates net distributions. The information in the appropriation/budget line item

view sorts payments by state budget line item. For each line item, the gross payments, assessments, and net distributions are provided. The transaction detail view (*Figure 1*) provides the most detailed information. The appropriation name and number is specified, along with the dates of individual payment transactions for each appropriation. This view also shows the amount of each payment.

For some non-Cherry Sheet payments, municipalities find it difficult to identify the purpose for which these payments have been received. In some instances, they may also have difficulty determining the payment source. The appropriation name and number, and the payment and reference numbers, should help local officials more easily identify the payment source and purpose.

For continually updated Commonwealth related information check out the Massachusetts Comptroller's site at www.state.ma.us/osc. If you would like additional information, please call the Help Desk at the Office of the State Comptroller at (617) 727-5995. ■

Jean McCarthy Retires

City & Town editor Jean McCarthy retired from the Division of Local Services (DLS) in December 2000. Jean was also the executive assistant to Deputy Commissioner Joseph J. Chessey, Jr., and the person in charge of training for the Division.

As editor of *City & Town*, Jean prepared over 30 issues. However, she was quick to note that each edition of *City & Town* was "the result of a team effort. DLS staff contributed to writing articles, supplying and analyzing data, and also to reviewing and editing articles." Jean felt that the analyses featured in the *Focus* articles were "useful tools" for municipal officials. She especially enjoyed meeting and working with various local officials.

On behalf of the Division, Deputy Commissioner Chessey has expressed his thanks to Jean for her contributions and dedication to the Division and particularly her work with *City & Town* and the Department of Revenue's Course 101 for assessors.

We welcome Joan Grouke, who has been appointed to assume Jean's responsibilities, including that of editor of *City & Town*. Joan most recently worked in the Division's Technical Assistance Bureau researching and writing financial management reviews of municipalities. Prior to joining the Division's staff in 1998, Joan was a school committee member and selectman in the Town of Seekonk. Joan holds a master's degree in public administration from the University of Rhode Island and a bachelor's degree in American government from Georgetown University. ■

Figure 1

ADAMS				
Non-Cherry Sheet Payments for BFY 2001				
Appropriation Name: ELECTIONS — PRIMARY AND OTHER				
Appropriation Number: 05210000				
Payment Date	Dept.	Payment Num	Payment Ref. #	Payment Amount
8/19/00	SEC	232D0010303	EXT. POLLING HOURS	\$782.00
Appropriation Name: BERKSHIRE NORTHERN DISTRICT REGISTRY OF				
Appropriation Number: 05401600				
Payment Date	Dept.	Payment Num	Payment Ref. #	Payment Amount
1/18/01	SEC	00008745360	JULY-JAN RENT	\$3,850.00
2/14/01	SEC	00008819456	BALANCE JULY-JAN	\$1,885.76

Municipal Fiscal Calendar

March 31

State Treasurer: Notification of quarterly local aid payment on or before March 31.

April 1

Collector: Mail second-half semi-annual tax bills.

May 1

Taxpayer: Deadline for payment of semi-annual and quarterly tax bill without interest.

Treasurer: Deadline for payment of second half of county tax.

Accountant/Treasurer: Notification of amount of debt due in next fiscal year.

May 15

Treasurer: Third quarterly reconciliation of cash (due 45 days after end of quarter).

DOR/BLA: Commissioner determines and certifies telephone and telegraph company valuations.

Use WebFile for Filing State Tax Returns

Massachusetts Revenue Commissioner Frederick A. Laskey is encouraging taxpayers to electronically file (E-file) their state tax returns using the Department of Revenue's new filing method called WebFile.

WebFile enables taxpayers and tax practitioners to prepare and file a return, at no cost, via www.massdor.com and is available using any computer with Internet access, and without having to download special software. The advantage to taxpayers who E-file their returns is that they can get their refund much quicker. About 70 percent of all people who file returns receive a refund, which averages \$400.

In addition to WebFile, taxpayers can E-file a Massachusetts personal income tax return by touch-tone telephone using Telefile; by using the services provided by an approved tax professional; and by using approved commercial tax preparation software. Taxpayers are also encouraged to use the e-mail function featured on DOR's website, www.massdor.com, where taxpayer questions can be answered online within 48 hours. ■

New Daytime Assessors' Course

This spring, on three non-consecutive days, the Division of Local Services (DLS) will offer daytime sessions of the assessors' Course 101 at the Department of Revenue's Sleeper Street location in Boston. This course is designed for participants who would prefer to attend daytime, rather than evening, classes. Registration will be limited and priority will be given to participants who are approaching the two-year deadline for completing this course.

DLS will offer evening classes of Course 101 this spring over a six-week period. Consideration will be given to locations where there are assessors who need to attend the course this year.

For further information, contact Barbara LaVertue, coordinator of training, at (617) 626-2340. ■

City & Town



City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

Joan Gourke, Editor

To obtain information or publications, contact the Division of Local Services via:

- website: www.state.ma.us/dls
- telephone: (617) 626-2300
- mail: PO Box 9490, Boston, MA 02205-9490

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